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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,396	02/10/2004	Renny H. Barnes	71071-0017	9802

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EXAMINER

CLARK & BRODY
1750 K STREET NW
SUITE 600
WASHINGTON, DC 20006

KING, ANITA M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,396

Applicant(s)

BARNES, RENNY H.

Examiner

Anita M. King

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/10/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

This is the first office action for application number 10/774,396, Wall Article Hanger for D-Ring and Method of Use, filed on February 10, 2004.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "51". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: on page 7, line 22, --has-- should be inserted after "also"; on page 10, line "as" appears to be incorrect and should be --has--; and on page 12, line 3, "29" appears to be incorrect and should be --59--. Also, the subject matter of lines 17-22 of page 9 through lines 1-2 on page 10, does not make sense, the subject matter is conflicting, the applicant admits

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that the "stop portion" is needed, than turns around and states that the invention can work without the stop portion.

Appropriate correction is required.

Claim Objections

Claim 7 objected to because of the following informalities: in line 4, "a" after "article" should be deleted and —a—should be inserted before "movable". Appropriate correction is required.

Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 9 does not further limit the method steps of claim 8 from which it directly depends, claim 9 recites structural limitations.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the wall" in line 14. There is insufficient antecedent basis for this limitation in the claim.

There is an inconsistency between the language in the preamble and certain portions in the body of the claim, thereby making the scope of the claim unclear. The preamble in claim 1 clearly indicates that a subcombination is being claimed, e.g., "a wall article hanger for a wall article using one or more d-ring assemblies...." This language would lead the examiner to believe that the applicant intends to claim only the subcombination of "a wall article hanger," the d-ring assemblies being only functionally recited. This presents no problem as long as the body of the claim also refers to the d-ring assemblies functionally.

The problem arises when the d-ring assembly or elements thereof is positively recited within the body of the claim, such as, "the elongated body being sized in length so that the first end portion contacts a portion of the plate body..." in lines 14-17 of claim 1. The examiner cannot be sure if applicant's intent is to claim merely the wall article hanger or the wall article hanger in combination with the d-ring assembly.

Applicant is required to clarify what the claims are intended to be drawn to, i.e., either the wall hanger alone or the combination of the wall hanger and the d-ring assembly. Applicant should make the language of the claim consistent with applicant's intent. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the subcombination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination. Also, see claim 6 for this

inconsistency in regards to lines 4-7, where the wall article is positively recited as an element of the claimed invention; and claim 11, where the d-ring is positively cited as an element of the claimed invention in lines 11-14.

Claim 4 recites the limitation "the at least one arm" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. Previously in the claim cites "a pair of prongs" and in lines 4 and 5, "at least one prong," is cited.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: there is no structural relationship between the d-ring assembly and the picture hanger in the claim. Claim 7 is considered to be independent because it does not depend from any proceeding claim.

Claim 7 recites the limitations "the wall article" in line 4 and "the wall article hanger" in line 6. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by

U.S. Patent 4,333,625 to Haug. Haug discloses a wall article hanger (22) comprising: an elongated body having a first end portion; a center portion having one or more arms (23) extending from the center portion and adapted to attach a movable ring; a second end portion having at least one prong (13) protruding at an angle from a longitudinal axis of the elongated body, wherein the at least one prong is adapted to penetrate the wall (18) to support a wall article (21), the elongated body being sized in length to be capable of contacting a plate body of a d-ring assembly; wherein the second end portion has a plate (15) at the angle, the plate forming a bridge; a pair of arms (23), each arm extending from a side of the elongated body; and where the at least one arm has a curved shape.

Claims 1, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,267,718 to Sheehan. Sheehan discloses a wall article hanger (10) comprising: a first end portion; a center portion having one or more arms (24) extending from the center portion; a second end portion having at least one prong (27) protruding at an angle from a longitudinal axis of the elongated body; wherein the at least one prong is adapted to penetrate the wall to support the wall article, the elongated body being sized in length to be capable of contacting a plate body of a d-ring assembly; where the at least one arm has a curved shape; and a pair of prongs.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheehan in view of U.S. Patent 5,069,412 to Jacob. Sheehan further discloses a pair of prongs at the second end portion, and a plate (18) at the second end portion, the plate forming a bridge between the at least one prong and a rear surface of the wall article so that forces applied to the wall article are transmitted directly to the at least one prong via the plate. Sheehan discloses the claimed invention except for the limitation of having a pair of arms. Jacob teaches a hanger having an elongated body and wherein a pair of arms (38) extends from the body. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the hanger in Sheehan to have included a pair of arms for the purpose of providing more stability to the supported object.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,298,651 to Passer in view of Kiessling. Passer discloses a picture hanger (10) having an arm (30) for receiving an assembly for hanging an object. Passer discloses the claimed invention except for the limitation of a D-ring assembly. Kiessling discloses a d-ring assembly (11) comprising: a plate body (12), and a movable ring. It would have been obvious to one having ordinary skill in the art at the time the invention was

made to have modified the device in Passer to have included the d-ring assembly as taught by Kiessling for the purpose of providing a more stable means for supporting an article on the hanger.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haug in view of U.S. Patent 1,914,951 to Kiessling. Haug inherently teaches the method of hanging a wall article (21) having a wire (20) assembly attached thereto comprising the steps of: attaching a body to the wire, the body having at least one prong on a first end portion thereto; and pressing the wall article against a wall surface (18). Haug discloses the claimed invention except for the limitation of a D-ring assembly. Kiessling teaches a D-ring assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the method of hanging in Haug to have included the D-ring as taught by Kiessling for the purpose of providing an alternative means for supporting a wall article on the wall.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 165,206 to Brown

U.S. Patent 454,111 to Coupe

U.S. Patent 1,616,957 to Honigbaum

U.S. Patent 2,454,813 to Larson

U.S. Patent 2,686,641 to Friedrich

U.S. Patent 3,501,124 to Goss

U.S. Patent 5,236,168 to Roy

U.S. Patent 5,267,719 to Keller

U.S. Patent 5,269,487 to Heitzman

U.S. Patent 6,783,106 to Barnes

U.S. Patent 6,641,107 to Janssen

Brown discloses a picture-frame hanger. Coupe discloses a picture hanger.

Honigbaum discloses a retainer for supporting a hanging object. Larson discloses a picture hanger. Friedrich discloses a hanger for frameless pictures or mirrors. Goss discloses a mirror or picture hanger. Roy discloses a self-fastening hanger for attaching a picture-frame wire to the rear of a frame. Keller discloses a picture frame wire hanger. Heitzman discloses a restraint device for pictures and wall hangings. Barnes discloses a wall article hanging device. Janssen discloses a tool-free hanging device for hanging an object from a wall.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

November 18, 2004